



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

May 13, 2016

Waterford Development, LLC
Attn: Dan Wisner
4910 NW 127th Street
Vancouver, WA 98685

Re: Administrative Order No. 12981 to permanently impact 0.14 acre of isolated wetlands
to construct the Windmill Terrace Phase 2B subdivision in Clark County, Washington

Dear Mr. Wisner:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application on June 9, 2015, requesting an Administrative Order for proposed work in isolated wetlands. Ecology has determined that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Chapter 90.48 RCW and other applicable requirements of state law.

This approval is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Rebecca Rothwell at 360-407-7273 or rebecca.rothwell@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Perry J. Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosure

By Certified Mail 7014 0150 0000 9188 7043

e-cc: Dave Martin, U.S. Army Corps of Engineers
Mara McGrath, Ecological Land Services
Sam Crummett, City of Battle Ground
Victor Woodward, BGMC
Rebecca Rothwell, Ecology
ECY RE FED PERMITS



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY)	
Waterford Development, LLC/Dan Wisner)	ORDER #12981
FOR AN ADMINISTRATIVE ORDER TO)	Corps JD #2015-00519
CONDUCT WORK IN ISOLATED WETLANDS)	

TO: Waterford Development, LLC
Attn: Dan Wisner
4910 NW 127th Street
Vancouver, WA 98685

This is an Administrative Order requiring Waterford Development, LLC/Dan Wisner to comply with Chapter 90.48 RCW and the rules and regulations of the Department of Ecology (Ecology) by taking certain actions which are described below. RCW 90.48.120(1) authorizes Ecology to issue Administrative Orders requiring compliance whenever it determines that a person has violated or creates a substantial potential to violate any provision of Chapter 90.48 RCW.

Ecology received the Waterford Development, LLC/Dan Wisner Joint Aquatic Resources Permit Application (JARPA) on June 9, 2015, requesting an Administrative Order to impact 0.14 acre of isolated wetlands to construct Windmill Terrace Phase 2B in Clark County. The site is located north of the existing terminus of NE 7th Court and north of NE 139th Street in Vancouver, SE ¼ S22 T3N R1E, W.M., Clark County, WRIA 28 Salmon Washougal.

This Administrative Order authorizes 0.14 acre of Category IV isolated wetland impacts at the project location. Offsite mitigation for this proposal will consist of 0.27 acre of wetland mitigation (an undivided combination of creation, rehabilitation, and preservation) at the Remy Consolidated Mitigation Site (Remy) in Battle Ground, as described in the *Consolidated Mitigation Plan for Windmill Terrace Phase 2B, Clark County, Washington*, dated November 18, 2015.

For purposes of this Order, the term "Applicant" shall mean Waterford Development, LLC/Dan Wisner and its agents, assigns, and contractors.

In view of the foregoing and in accordance with RCW 90.48.120(1):

IT IS ORDERED that the Applicant shall comply with the following:

A. General Conditions:

- A.1 The Applicant shall construct and operate the project in a manner consistent with the project description contained in the JARPA received by Ecology on June 9, 2015, or as otherwise approved by Ecology.

- A.2 For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Rebecca Rothwell, SEA Program, PO Box 47775, Olympia, WA 98504-7775. All submittals shall reference Order No. 12981.
- A.3 The Applicant shall provide access to the project site and mitigation site upon request by Ecology.
- A.4 Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and forepersons, and state and local government inspectors.
- A.5 Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect the public interest.
- A.6 The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.

B. Notification Requirements:

- B.1 The Applicant shall provide written notification (e-mail or mail) to Rebecca Rothwell at Ecology's Southwest Regional Office in accordance with condition A.2 above for the following activities:
 - a. At least seven (7) days before the start of impacts to wetlands.
 - b. Immediately following a violation of the state water quality standards or any condition of this Order.
 - c. Within fourteen (14) days after completion of construction.

C. Wetland Compensatory Mitigation Conditions

- C.1 The Applicant shall mitigate wetland impacts as described in the *Consolidated Mitigation Plan for Windmill Terrace Phase 2B, Clark County, Washington* (hereafter called the "Mitigation Plan") prepared by Ecological Land Services, Inc., and dated November 18, 2015, or as modified by this Order or revised and approved by Ecology.

- C.2 The Applicant shall submit any changes to the Mitigation Plan in writing to Ecology (per Condition A.2) for review and approval before work begins.

Implementation

- C.3 Within 90 days of the date of this Order, the Applicant shall submit to Ecology (per Condition A.2) a baseline conditions report documenting current site conditions for its 0.27-acre portion of the Remy site. The report must:
- a) Include one hard copy and one electronic file.
 - b) Include the information listed in Attachment B (Information Required for Baseline Conditions Reports).
- C.4 Prior to impacting wetlands, the Applicant shall submit to Ecology documentation from the Battle Ground Mitigation Partners verifying the purchase of 0.27 acre at Remy. This documentation must include Order #12981, Order issuance date, impact acreage, the mitigation acreage required by the permit, a site map showing the location of the 0.27-acre area, the legal description of the 0.27-acre area, and the date of acreage purchase.
- C.5 If 0.27 acre is not purchased at Remy within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of the Windmill Terrace Phase 2B project and when the 0.27-acre area will be purchased, with the reason for the delay and expected date of project completion.

The Applicant shall submit an updated written notification every 12 months thereafter until the Windmill Terrace Phase 2B project is complete and the required area is purchased.

Monitoring and Maintenance

- C.6 The Applicant is responsible for the monitoring and management, and for ensuring the success, of its 0.27-acre portion of the Remy mitigation site.
- C.7 The Applicant shall submit to Ecology (per Condition A.2) monitoring reports documenting mitigation site conditions within its 0.27-acre portion of the Remy site for years 5 (2017), 7 (2019), and 10 (2022). The monitoring reports must:
- a) Be submitted by December 31 of each monitoring year. Include one hard copy and one electronic file.
 - b) Include the information listed in Attachment C (Information Required for Monitoring Reports).

- C.8 The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.
- C.9 Prior to implementing contingency measures not specified in the Mitigation Plan, the Applicant shall consult with and obtain written approval from Ecology for the changes.
- C.10 When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the first available planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
- C.11 For monitoring years five (5) and ten (10), the Applicant shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate all compensatory wetlands within its 0.27-acre portion of the Remy site and include delineation information (e.g. data sheets, maps, etc.) in the monitoring reports.
- C.12 At the end of the monitoring period, the Applicant shall use the 2004 of "Washington State Wetlands Rating System for Western Washington" to rate all wetlands within its 0.27-acre mitigation area (except those that have been preserved) and include the information in the monitoring report.
- C.13 If the Applicant has not met all conditions, including performance standards, for its 0.27-acre portion of the Remy mitigation site at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.
- C.14 Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition C.1 to mitigate for wetland impacts is not met.

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

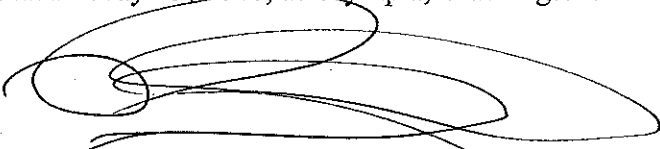
- Serve a copy of your appeal and this Order on Ecology in paper form by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW, Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

DATED May 13, 2016, at Olympia, Washington.



Perry J Lund, Unit Manager
Shorelands & Environmental Assistance Program
Southwest Regional Office
State of Washington

Attachment A
Statement of Understanding
Administrative Order Conditions

Project: Windmill Terrace Phase 2B
Applicant: Waterford Development, LLC/Dan Wisner
Administrative Order No. 12981

I, _____, state that I will be involved as an agent or contractor for Waterford Development, LLC/Dan Wisner in the site preparation and/or construction of the Windmill Terrace Phase 2B project located north of the existing terminus of NE 7th Court and north of NE 139th Street in Vancouver, Clark County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Administrative Order No. 12981 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

Attachment B

Information Required for Baseline Conditions Reports

Windmill Terrace Phase 2B
Administrative Order #12981

Ecology requires the following information for baseline conditions reports submitted under this Order.

Background Information

- 1) Project name.
- 2) Ecology Order number and the Corps JD number.
- 3) Name and contact information of the person preparing the report. Also, if different from the person preparing the report, include the names of:
 - a) The applicant
 - b) The landowner
 - c) Wetland professional on site during construction of the mitigation site.
- 4) Date the report was produced.

Mitigation Project Information

- 5) Brief description of the **final** mitigation project, with any changes from the approved plan made during construction. Include **actual** acreage of Cowardin classes and mitigation types (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
- 6) Percent cover of native plants for the emergent Cowardin class, the forested and scrub-shrub Cowardin classes combined, and the wetland buffer (if applicable).
- 7) Percent cover of non-native, invasive plant species.
- 8) Percent cover of reed canarygrass.
- 9) List of any follow-up actions needed, with a schedule for implementation.
- 10) Vicinity map showing the geographic location of the site, with landmarks.
- 11) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
 - a) Boundary of the site.
 - b) Topography, with a description of how elevations were determined.
 - c) Installed planting scheme (quantities, densities, sizes, and approximate locations of plants).
 - d) Location of habitat features.
 - e) Location of permanent photo stations and any other photos taken.Include the month and year when each map was produced or revised. The site maps should reflect on-the-ground conditions after the site work is completed.
- 12) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction from which each photo was taken. Photo pans are recommended.
- 13) A copy of the recorded deed restriction/notice on title.

Attachment C

Information Required for Monitoring Reports

Windmill Terrace Phase 2B
Ecology Administrative Order #12981

Ecology requires the following information for monitoring reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

Background Information

- 1) Project name.
- 2) Ecology Order number and the Corps JD number.
- 3) Name and contact information of the person preparing the monitoring report. Also, if different from the person preparing the report, include the names of:
 - a) The applicant
 - b) The landowner
 - c) The party responsible for the monitoring activities.
- 4) Dates the monitoring data were collected.
- 5) Date the report was produced.

Mitigation Project Information

- 6) Brief description of the mitigation project, including acreage of Cowardin classes and mitigation types (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
- 7) Description of the monitoring approach and methods. For each performance standard being measured provide the following information:
 - a) Description of the sampling technique (e.g., monitoring point for soil or hydrology, line or point intercept method, ocular estimates in individually placed plots). If you are using a standardized technique, provide a reference for that method.
 - b) Size and shape of plots or transects.
 - c) Number of sampling locations and how you determined the number of sampling locations to use.
 - d) Percent of the mitigation area being sampled.
 - e) Locations of sampling (provide a map showing the locations), how you determined where to place the sampling locations (e.g., simple random sample), and whether they are permanent or temporary.
 - f) Schedule for sampling (how often and when).
 - g) Description of how the data was evaluated and analyzed.
- 8) Summary table(s) comparing performance standards with monitoring results and whether each standard has been met.
- 9) Discussion of how the monitoring data were used to determine whether the site(s) is meeting performance standards.
- 10) Goals and objectives and a discussion of whether the project is progressing toward achieving them.

- 11) Summary, including dates, of management actions implemented at the site (e.g., maintenance and corrective actions).
 - 12) Summary of any difficulties or significant events that occurred on the site that may affect the success of the project.
 - 13) Specific recommendations for additional maintenance or corrective actions, with a timetable for implementation.
 - 14) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction the camera is facing. Photo pans are recommended.
 - 15) Vicinity map showing the geographic location of the site, with landmarks.
 - 16) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
 - a) Boundary of the site.
 - b) Location of permanent photo stations and any other photos taken.
 - c) Data sampling locations, such as points, plots, or transects.
 - d) Approximate locations of any replanted vegetation.
 - e) Changes to site conditions since the last report, such as areas of regrading, a shift in the location of Cowardin classes or habitat features, or a change in water regime.
- Include the month and year when each map was produced or revised. The site maps should reflect on-the-ground conditions during the most recent monitoring year.